HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 32550 of 1998

Dated: 30.03.2007

Between:

Kyasa narayana S/o Veeraiah

.... PETITIONER

AND

The Revenue Divisional Officer, Karimnagar and two others

.....RESPONDENTS

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No.32550 of 1998

Order:

The petitioner approached this court by way of filing the present Writ Petition with the following prayer:

> "For the reasons disclosed in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring and setting aside the notice dated 24.4.1998 issued in Proc. No. G/4691/97 on the file of the 2nd respondent as illegal, arbitrary, without jurisdiction and violative of Article 300-A of the Constitution of India by further declaring the impugned action of the respondents in seeking to demolish the house properties bearing Nos. 16-69 and 16-69/1 situated at Huzurabad Village and Mandal, Karimnagar District, belonging to the petitioner without any authority of law, as illegal and arbitrary; Award costs and pass such other or further orders, as are deemed fit and proper in the circumstances of the case."

The brief facts of the case are that the petitioner purchased the house bearing No. 16-69 (old No. 98.107) through registered sale deed dated 28.6.1964 and ever since he has been in possession of the property. In the year 1975, the old house was demolished and a new house with RCC roof was constructed with the permission of the Gram Panchayat. In the year 1992, first floor was constructed on the above

premises with the permission of the Gram Panchayat. In the year 1992, first floor was constructed on the above premises with the permission of the Gram Panchayat. He also purchased open land on the backside through Regd Sale Deed dated 11.8.1975 and a room was also constructed thereon bearing door No. 16-69/1. It is submitted that even prior to his purchase his vendor was in possession of the property from the last about 50 years and there is neither any dispute with regard to the title nor with the possession of his vendor. The petitioner is in possession and enjoyment of the property as absolute owner from the date of his purchase. Be that as it may, as the respondents herein are trying to demolish a part of the property for road widening without following any procedure, the petitioner filed W.P.No. 27119 of 1997 before this Court and the same was disposed of by an order dated 12.2.1998 directing the respondents to conduct a detailed enquiry and pass appropriate orders before taking up demolition. Thereafter, the 2nd respondent issued notice dated 24.4.1998 purporting to be under Section 7 of the Land Encroachment Act, stating that the petitioner encroached the land on PWD Road and constructed the house. Hence, the present Writ Petition.

Despite the fact that notice is served on the respondents, no counter affidavit is filed. Evidently, respondents issued a notice under Section 7 of the Land Encroachment Act, for which an explanation was offered on 27.4.1998. The apprehension of the petitioner is that on 17.11.1998 respondents visited the land in question and made markings for the purpose of demolishing the same, as part of road widening

This court is of the view that having regard to the fact that a show cause notice was issued for which an explanation was also offered, the respondents cannot initiate any further action without passing any order on the explanation to the show cause notice dated 24.4.1998. Accordingly, the respondents are hereby directed to pass appropriate orders by considering the said explanation and thereafter proceed in

accordance with law.

Accordingly, the Writ Petition is disposed of. No order as to costs.

GOPALA KRISHNA TAMADA, J.

Date: 30.03.2007
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